

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE PAVERS AND ROAD
BUILDERS DISTRICT COUNCIL
WELFARE, PENSION, ANNUITY AND
APPRENTICESHIP, SKILL
IMPROVEMENT AND SAFETY FUNDS,

ORDER

13-CV-07103 (NGG) (RML)

Plaintiffs,

-against-

COLE PARTNERS, INC.,

Defendant.

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NICHOLAS G. GARAUFIS, United States District Judge.

On December 11, 2013, Plaintiffs, multiemployer benefit plans within the meaning of section 3(3) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1002(3), initiated this action against Defendant Cole Partners, Inc., to collect delinquent employer contributions to the Plaintiff benefit plans. (Compl. (Dkt. 1).) Plaintiffs filed and served an Amended Complaint in February 2014. (Am. Compl. (Dkt. 6); Summons (Dkt. 7).) Defendant did not appear, and on April 16, 2014, Plaintiffs moved for default judgment. (Mot. for Default J. (Dkt. 11).) By Order dated April 16, 2014, the court referred the motion for default judgment to Magistrate Judge Robert Levy for a Report and Recommendation ("R&R") pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b)(1), addressing both liability and damages. (See Order (Dkt. 18).)

On February 6, 2015, Judge Levy issued an R&R recommending that the court grant Plaintiffs' motion for default judgment and direct the entry of judgment against Defendant in the following amounts: (a) \$110,941.87 in unpaid contributions, plus interest at the rate of \$30.40

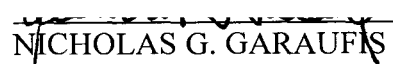
per day from February 6, 2015, to the date final judgment is entered; (b) \$20,191.96 in interest on unpaid contributions; (c) \$22,188.39 in liquidated damages; (d) \$1,144 in audit fees; (e) \$3,204 in attorney's fees; and (f) \$536.50 in costs. (R&R at 10.)

No party has objected to Judge Levy's R&R, and the time to do so has passed. See Fed. R. Civ. P. 72(b)(2). (See also R&R at 10 ("Any objections to this Report and Recommendation must be filed with the Clerk of Court . . . within fourteen days. Failure to file objections within the specified time waives the right to appeal the district court's order.")) Therefore, the court reviews the R&R for clear error. See Gesualdi v. Mack Excavation & Trailer Serv., Inc., No. 09-CV-2502 (KAM) (JO), 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010); La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000); cf. 28 U.S.C. § 636(b)(1). Finding no clear error, the court ADOPTS IN FULL the R&R and accordingly GRANTS Plaintiff's motion for default judgment. See Porter v. Potter, 219 F. App'x 112 (2d Cir. 2007) (summary order).

The Clerk of the Court is respectfully DIRECTED to enter judgment against Defendant in the amounts provided in Judge Levy's R&R and to close the case.

SO ORDERED.

Dated: Brooklyn, New York
February 26, 2015

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS
United States District Judge